

1 KAREN P. HEWITT
 United States Attorney
 2 RAVEN M. NORRIS
 Assistant U.S. Attorney
 3 California State Bar No. 232868
 880 Front Street, Room 6293
 4 San Diego, California 92101-8893
 Email: Raven.Norris@usdoj.gov
 5 Telephone: (619) 557-7157

6 Attorneys for the Respondents
 7

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 JUAN JOSE MARTINEZ-MADERA,)	Civil No. 07 cv 2237 JLS (WMC)
)	
11 Petitioner,)	EX PARTE REQUEST FOR EXTENSION
)	OF TIME TO FILE RETURN
12 v.)	
)	
13 MICHAEL CHERTOFF, Secretary of)	
Department of Homeland Security, et al.,))	
14)	
15 Respondents.)	
_____)	

16
 17 On November 26, 2007, Petitioner filed a Petition for Writ of Habeas Corpus and Motion for
 18 Appointment of Counsel, commencing this action. On December 5, 2007, the Court issued an order to
 19 show cause, granting the Government until Friday, January 4, 2008, to file a return. However, Petitioner
 20 failed to serve the United States Attorney. Therefore, the U.S. Attorney's Office did not become aware
 21 of the Petition until December 7, 2007, after issuance of this Court's order.

22 Petitioner seeks release from detention pending his removal proceedings. A preliminary
 23 investigation of the status of his removal proceedings reveals that the removal order became final on
 24 May 30, 2006,^{1/} and that judicial review is pending in Martinez-Madera v. Gonzales, No. 06-73157 (9th
 25 Cir.). Briefing was completed by all parties as of September 14, 2007 and the case is awaiting action
 26 from the Court. Petitioner sought and was granted a stay of removal pending judicial review. See Cruz-

27
 28 ^{1/} When the IJ orders an alien removed, the order becomes final either when (1) the alien
 waives appeal at the time the order is rendered, (2) the alien fails to file a notice of appeal within 30
 days after the IJ's order or (3) when the Board of Immigration Appeals ("BIA") dismisses the alien's
 appeal from the IJ's decision. See 8 C.F.R. § 1003.39. Here, the IJ ordered the Petitioner removed on
 June 21, 2006 and the BIA denied Petitioner's appeal on November 1, 2006.

1 Santiago v. Gonzales, No. 06-55654, 2007 WL580670 (“appellant is being voluntarily detained--upon
2 his requested stay of removal--pending appeal of his final removal order”) (9th Cir. Feb. 22, 2007)
3 (unpublished).

4 Undersigned counsel was assigned to the case on December 10, 2007, and will be unable to
5 sufficiently research the background and legal issues within the current time frame. The Court’s order
6 mandated that the answer “include any and all transcripts or other documents relevant to the
7 determination of the issues presented in the Petition.” Undersigned counsel requested the record from
8 U.S. Immigration and Customs Enforcement, but will be unable receive and review it before January
9 4, 2008. Furthermore, additional time is necessary to interview the individuals who are familiar with
10 the case. The Government respectfully requests that the deadline for filing the Return be re-set to
11 **February 1, 2008** and the deadline for filing the Traverse be re-set to **February 29, 2008**.

12
13
14 Dated: December 18, 2007

Respectfully submitted,

15
16 KAREN P. HEWITT
United States Attorney

17
18 s/ Raven M. Norris
RAVEN M. NORRIS
19 Assistant U.S. Attorney
20 Attorneys for Respondents
21
22
23
24
25
26
27
28